

SECOND REGULAR SESSION

# SENATE BILL NO. 1002

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS JUSTUS, WILSON AND CALLAHAN.

Read 1st time January 22, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4531S.011

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## AN ACT

To repeal section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to zoning violation remedies, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, is repealed and one new section enacted in lieu thereof, to be known as section 89.120, to read as follows:

89.120. 1. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of sections 89.010 to 89.140 or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place, or premises to be inspected and examined and to

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

12 order in writing the remedying of any condition found to exist therein or thereat  
13 in violation of any provision of the regulations made under authority of sections  
14 89.010 to 89.140.

15 2. The owner or general agent of a building or premises where a violation  
16 of any provision of said regulations has been committed or shall exist, or the  
17 lessee or tenant of an entire building or entire premises where such violation has  
18 been committed or shall exist, or the owner, general agent, lessee, or tenant of  
19 any part of the building or premises in which such violation has been committed  
20 or shall exist, or the general agent, architect, builder, contractor, or any other  
21 person who commits, takes part or assists in any such violation, or who maintains  
22 any building or premises in which any such violation shall exist shall be guilty  
23 of a misdemeanor punishable as follows:

24 (1) In any [municipality contained wholly or partially within a county]  
25 **city** with [a population of over six hundred thousand and less than nine] **more**  
26 **than three** hundred thousand **inhabitants**, by a fine of not less than ten dollars  
27 and not more than five hundred dollars for each and every day that such violation  
28 continues, or by imprisonment for ten days for each and every day such violation  
29 shall continue, or by both such fine and imprisonment in the discretion of the  
30 court. Notwithstanding the provisions of section 82.300, RSMo, however, for the  
31 second and subsequent offenses involving the same violation at the same building  
32 or premises, the punishment shall be a fine of not less than two hundred and fifty  
33 dollars or more than one thousand dollars for each and every day that such  
34 violation shall continue, or by imprisonment for ten days for each and every day  
35 such violation shall continue, or by both such fine and imprisonment in the  
36 discretion of the court;

37 (2) In all other municipalities, by a fine of not less than ten dollars and  
38 not more than [one] **two** hundred **fifty** dollars for each and every day that such  
39 violation continues, [but if the offense be willful on conviction thereof, the  
40 punishment shall be a fine of not less than one hundred dollars or more than two  
41 hundred and fifty dollars for each and every day that such violation shall  
42 continue] or by imprisonment for ten days for each and every day such violation  
43 shall continue, or by both such fine and imprisonment in the discretion of the  
44 court. **Notwithstanding the provisions of section 82.300, RSMo, to the**  
45 **contrary, for second and subsequent offenses involving the same**  
46 **violation at the same building or premises, the punishment shall be a**  
47 **fine of not less than one hundred dollars but not more than five**

48 **hundred dollars for each and every day that such violation shall**  
49 **continue, or by imprisonment for ten days for each and every day such**  
50 **violation shall continue, or by both such fine and imprisonment in the**  
51 **discretion of the court.**

52         3. Any such person who, having been served with an order to remove any  
53 such violation, shall fail to comply with such order within ten days after such  
54 service or shall continue to violate any provision of the regulations made under  
55 authority of sections 89.010 to 89.140 in the respect named in such order shall  
56 also be subject to a civil penalty of two hundred and fifty dollars.

          [89.120. 1. In case any building or structure is erected,  
2         constructed, reconstructed, altered, converted or maintained, or any  
3         building, structure or land is used in violation of sections 89.010 to  
4         89.140 or of any ordinance or other regulation made under  
5         authority conferred hereby, the proper local authorities of the  
6         municipality, in addition to other remedies, may institute any  
7         appropriate action or proceedings to prevent such unlawful  
8         erection, construction, reconstruction, alteration, conversion,  
9         maintenance or use, to restrain, correct, or abate such violation, to  
10        prevent the occupancy of such building, structure, or land, or to  
11        prevent any illegal act, conduct, business, or use in or about such  
12        premises. Such regulations shall be enforced by an officer  
13        empowered to cause any building, structure, place or premises to  
14        be inspected and examined and to order in writing the remedying  
15        of any condition found to exist therein or thereat in violation of any  
16        provision of the regulations made pursuant to the authority of  
17        sections 89.010 to 89.140.

          2. Except as provided in subsection 4 of this section, the  
19        owner or general agent of a building or premises where a violation  
20        of any provision of said regulations has been committed or shall  
21        exist, or the lessee or tenant of an entire building or entire  
22        premises where such violation has been committed or shall exist,  
23        or the owner, general agent, lessee or tenant of any part of the  
24        building or premises in which such violation has been committed  
25        or shall exist, or the general agent, architect, builder, contractor or  
26        any other person who commits, takes part or assists in any such  
27        violation or who maintains any building or premises in which any

28 such violation shall exist shall be guilty of a misdemeanor  
29 punishable by a fine of not less than ten dollars and not more than  
30 two hundred fifty dollars for each and every day that such  
31 violation continues or by imprisonment for ten days for each and  
32 every day such violation shall continue or by both such fine and  
33 imprisonment in the discretion of the court. Notwithstanding the  
34 provisions of section 82.300, RSMo, however, for the second and  
35 subsequent offenses involving the same violation at the same  
36 building or premises, the punishment shall be a fine of not less  
37 than one hundred dollars or more than five hundred dollars for  
38 each and every day that such violation shall continue or by  
39 imprisonment for ten days for each and every day such violation  
40 shall continue or by both such fine and imprisonment in the  
41 discretion of the court.

42 3. Any such person who having been served with an order  
43 to remove any such violation shall fail to comply with such order  
44 within ten days after such service or shall continue to violate any  
45 provision of the regulations made under authority of sections  
46 89.010 to 89.140 in the respect named in such order shall also be  
47 subject to a civil penalty of two hundred and fifty dollars.

48 4. In a city with a population of more than three hundred  
49 fifty thousand, the owner or general agent of a building or premises  
50 where a violation of any provision of said regulations has been  
51 committed or shall exist, or the lessee or tenant of an entire  
52 building or entire premises where such violation has been  
53 committed or shall exist, or the owner, general agent, lessee or  
54 tenant of any part of the building or premises in which such  
55 violation has been committed or shall exist, or the general agent,  
56 architect, builder, contractor or any other person who commits,  
57 takes part or assists in any such violation or who maintains any  
58 building or premises in which any such violation shall exist shall  
59 be guilty of a misdemeanor punishable by a fine of not less than  
60 ten dollars and not more than two hundred fifty dollars for each  
61 and every day that such violation continues, but if the offense be  
62 willful on conviction thereof, the punishment shall be a fine of not  
63 less than one hundred dollars or more than five hundred dollars for

64 each and every day that such violation shall continue or by  
65 imprisonment for ten days for each and every day such violation  
66 shall continue or by both such fine and imprisonment in the  
67 discretion of the court.]

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Bill

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